

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 514I.5, the Department of Human Services amends Chapter 86, “Healthy and Well Kids in Iowa (HAWK-I) Program,” Iowa Administrative Code.

These amendments implement a one-month delay in HAWK-I benefits when health insurance for the child has ended during the month of application for a child whose family’s countable income equals or exceeds 200 percent of the federal poverty level. The amendments specify conditions when the delay does not apply, including situations when the reason the insurance ended was out of the family’s control.

The intent of this provision is to provide a disincentive for families who drop health insurance coverage for their children and then apply for aid. The Centers for Medicare and Medicaid Services has informed the Department that a strategy to avoid this phenomenon (called “crowd out”) must be implemented as a condition of approval for the HAWK-I State Plan amendment to expand income eligibility to families whose countable limit is up to 300 percent of the federal poverty level.

An amendment to subrule 86.2(4) was Adopted and Filed Emergency and was published in the Iowa Administrative Bulletin on September 9, 2009, as **ARC 8127B**. Notice of Intended Action to solicit comment on that amendment was published in the Iowa Administrative Bulletin on the same date as **ARC 8128B**. The Department received no comments on the Notice of Intended Action. However, the Department has received clarification from the Centers for Medicare and Medicaid Services that has led to shortening the “look-back” period from six months to one month.

In order to clarify the difference between the effect of health insurance on a child’s eligibility for HAWK-I benefits and the effect on the beginning date of HAWK-I coverage, the Department has moved most of the language previously adopted in paragraph 86.2(4)“b” to subrule 86.5(1), which addresses the effective date of coverage for initial applicants. Paragraph 86.2(4)“b” now reads as follows:

“b. A child whose health insurance ends in the month of application shall be considered uninsured for purposes of HAWK-I eligibility. However, a one-month waiting period may be imposed pursuant to subrule 86.5(1) for a child who is subject to a monthly premium pursuant to paragraph 86.8(2)‘c.’ ”

In addition, the following technical amendments have been added to clarify the effective date of eligibility:

- Legal references have been updated in subrule 86.5(2),
- New subrule 86.5(3) has been added to explain the annual renewal process, and
- New subrule 86.5(4) has been created to address children who are added to HAWK-I coverage in an existing enrollment period established for other children in the family.

These amendments provide for waiver of the waiting period in several specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

The HAWK-I Board adopted these amendments on October 19, 2009.

These amendments are intended to implement Iowa Code chapter 514I.

These amendments will become effective on December 23, 2009.

The following amendments are adopted.

ITEM 1. Rescind paragraph **86.2(4)“b”** and adopt the following **new** paragraph in lieu thereof:

b. A child whose health insurance ends in the month of application shall be considered uninsured for purposes of HAWK-I eligibility. However, a one-month waiting period may be imposed pursuant to subrule 86.5(1) for a child who is subject to a monthly premium pursuant to paragraph 86.8(2)“c.”

ITEM 2. Amend rule 441—86.5(514I) as follows:

441—86.5(514I) Effective date of coverage.

86.5(1) Initial application. Coverage for children who are determined eligible for the HAWK-I program on the basis of an initial application for either HAWK-I or Medicaid shall be effective the first

day of the month following the month in which the application is filed, regardless of the day of the month the application is filed, or when a plan becomes available in the applicant's county of residence. However, a one-month waiting period shall be imposed for a child who is subject to a monthly premium pursuant to paragraph 86.8(2) "c" when the child's health insurance coverage ended in the month of application. EXCEPTIONS: A waiting period shall not be imposed if any of the following conditions apply:

- a. The child is moving from Medicaid to HAWK-I.
- b. The child has a medical condition that, without medical care, would cause serious disability, loss of function, or death.
- c. The cost of health insurance coverage for the child exceeds 5 percent of the family's gross income. The cost of health insurance for the child shall be the difference between the premium for coverage with and without the child.
- d. The health insurance was provided through an individual plan.
- e. The child's health insurance coverage was lost due to:
 - (1) Domestic violence.
 - (2) Divorce or death of a parent.
 - (3) An involuntary loss of employment that qualified the parent for dependent coverage, including but not limited to layoff, business closure, reduction in hours, or termination.
 - (4) A job change to a new employer that does not offer the parent dependent coverage or that requires a waiting period before children can be enrolled in dependent coverage.
 - (5) Utilization of the maximum lifetime coverage amount.
 - (6) Expiration of coverage under COBRA.
 - (7) Discontinuation of dependent coverage by the parent's employer.
 - (8) A reason beyond the control of the parent, such as a serious illness of the parent, fire, flood, or natural disaster.

86.5(2) Referrals from Medicaid.

a. Cancellation of Medicaid. Coverage for children who are determined eligible for the HAWK-I program on the basis of a referral from Medicaid due to cancellation of Medicaid benefits shall be effective the first day of the month after Medicaid eligibility is lost, regardless of the date of the referral, in order to ensure that there is no break in coverage. However, when such a child does not meet the provisions of ~~subrule~~ paragraph 86.2(4); "a," coverage shall be effective the first day of the month following the month in which health insurance coverage is lost.

b. Denial of Medicaid. Coverage for children who are determined eligible for the HAWK-I program on the basis of a referral from Medicaid due to denial of Medicaid benefits shall be effective no earlier than the first day of the month following the month in which the Medicaid application was received in accordance with 441—subrule 76.1(2). However, when such a child does not meet the provisions of ~~subrule~~ paragraph 86.2(4); "a," coverage shall be effective the first day of the month following the month in which health insurance coverage is lost.

86.5(3) Annual renewals. Coverage for children who are determined eligible for the HAWK-I program on the basis of an annual renewal shall be effective the first day of the month following the month in which the previous enrollment period ended.

86.5(4) Children added to an existing HAWK-I enrollment period. Coverage for children who are determined eligible for the HAWK-I program on the basis of a request from the family to add the child to an existing enrollment period shall be effective the first day of the month following the month in which the request was made. However, if the child does not meet the provisions of paragraph 86.2(4) "a," coverage shall be effective the first day of the month following the month in which health insurance coverage is lost unless the child is subject to a one-month waiting period in accordance with paragraph 86.2(4) "b."

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